

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CRIMINAL DOCKET NO.: 5:04CR14**

UNITED STATES OF AMERICA)
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 vs.)
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)
JAMES ARNOLD GUNNINGS, JR.,)
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Defendant.)
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THIS MATTER is before the Court on Defense Counsel's "Motion to Withdraw as Counsel and for Attorney Status Conference," filed December 29, 2005.

On March 22, 2004, Defendant was charged by way of Bill of Indictment with possession of a firearm by a convicted felon. Defendant retained Bill Baity, Esq. to represent him on this charge. On January 10, 2005, Defendant pled guilty to the charge in the Indictment. Defendant is currently scheduled to be sentenced on that charge before this Court on January 12, 2006.

In November 2005, Defendant was indicted in state court on the charge of murder, along with other related charges. Defendant's family retained Larry Hewitt, Esq. to represent Defendant on those state charges. Mr. Hewitt has not asked to represent Defendant in this matter, nor has he in any way appeared on behalf of Defendant.

On December 27, 2005, Mr. Baity, Defendant's attorney in this matter, received a fax from Defendant's mother in which Mr. Baity was advised that his services were terminated. During a subsequent visit by Mr. Baity at the Iredell County Jail, Defendant confirmed Mr. Baity's termination.

Mr. Baity asks the Court to allow him to withdraw as Defendant's attorney. Mr. Baity

does not advise the Court the basis upon which Defendant terminated Mr. Baity's legal services, nor did Defendant file a Motion asking the Court to appoint counsel to represent Defendant at sentencing. Defendant has not apprised the Court of his intention to have another lawyer appear in this case on Defendant's behalf.

The Court will hear these matters when this case comes on for sentencing. At that time, the parties are expected to be prepared to proceed with sentencing in this matter if the Court denies Defense Counsel's Motion to Withdraw as Counsel. That is, the parties should be prepared to argue the Motion to Withdraw as Counsel and to participate fully in Defendant's sentencing hearing. The Defendant is advised to cooperate to the fullest extent with his attorney, Bill Baity, to adequately prepare for sentencing and the other motion.

IT IS, THEREFORE, ORDERED that defense counsel's "Motion to Withdraw as Counsel and for Attorney Status Conference" will be heard at such time as this case is scheduled for sentencing.

IT IS FURTHER ORDERED that the Clerk shall certify copies of this Order to Defense Counsel, the United States Attorney, the Courtroom Deputy Clerk, the United States Marshal Service, and the United States Probation Office.

Signed: January 4, 2006



Richard L. Voorhees
United States District Judge



